

antigen; Group IV claims 16-17, drawn to a diagnostic kit comprising antigens; Group V claim 18, drawn to a composition comprising bacterial species or an immunologically active portion thereof; and Group VI claim 19, drawn to methods of treating PDD by administering the composition of the bacterial species or an immunologically active portion thereof.

Applicant traverses this requirement. Reconsideration and withdrawal thereof are earnestly requested.

Applicant submits that there is not an undue burden placed upon the Examiner to search and consider all of the claims. Applicant notes that in order to examine the claims of Groups I, II, III, IV, V, and VI, the Examiner would be required to examine the composition of claim 18 of Group V. All of the claims are related to each other and are linked by the special technical feature of the bacteria species, which is used in the various methods described in the claims. Accordingly, all of the claims should be joined and examined together.

In the alternative, Applicant requests the Examiner to hold in abeyance the finality of the Restriction Requirement until allowable subject matter is found, whereupon the process claims which are commensurate in scope with the allowed composition claim may be rejoined to the composition claims and examined on the merits.

Where product and process claims drawn to independent and distinct inventions are presented in the same application, applicant may be called upon under 35 U.S.C. § 121 to elect claims to either the product or process. See MPEP § 806.05(f) and § 806.05(h). The claims to the nonelected invention will be withdrawn from further consideration under 37 CFR 1.142. See MPEP § 809.02(c) and § 821 through § 821.03. However, if applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims which depend from or otherwise include all the limitations of the allowable product claims will be rejoined.” MPEP § 821.04

In any event, in order to be responsive to the outstanding Restriction Requirement, Applicant provisionally elects to prosecute Group V, claim 18 for prosecution on the merits, with traverse. Accordingly, early examination on the merits is respectfully requested.

Respectfully submitted,

SQUIRE, SANDERS & DEMPSEY L.L.P.

Dated: December 21, 2001

By: Joseph Hyosuk Kim
Joseph Hyosuk Kim, Ph.D.
Reg. No. 41,425

801 S. Figueroa Street
14th Floor
Los Angeles, CA 90017-5554
(213) 689-6533

Library: LosAngeles; Document #: 65303v1